

IBKJFEAS

Sentence

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

17 Cr. 377 RJS

5 DARNELL FEAGINS,

6 Defendant.

7 -----x

8  
9 November 20, 2018  
4:00 p.m.

10  
11  
12 Before:

13 HON. RICHARD J. SULLIVAN,

14 District Judge

15  
16 APPEARANCES

17  
18 GEOFFREY S. BERMAN,  
19 United States Attorney for the  
20 Southern District of New York  
CECILIA E. VOGEL,  
Assistant United States Attorney

21 BERNARD ALAN SEIDLER,  
22 Attorney for defendant Feagins

Also Present:

23 HILLEL GREENE,  
24 United States Probation Officer SDNY  
25

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1 (In open Court)

2 THE COURT: Good afternoon. I'll take appearances.

3 (Case called)

4 THE COURT: Mr. Feagins, good afternoon.

5 We have family or relatives here, Mr. Seidler?

6 MR. SEIDLER: Mr. Feagins' mother, your Honor.

7 THE COURT: Welcome. Everybody is welcome here. It  
8 is a public courtroom, so anyone who wants to come is certainly  
9 free to come, but I know you wrote me a letter as well about  
10 your son, so thank you for doing that. It is helpful to get  
11 letters of this kind.

12 We are here for sentencing. Mr. Feagins, admitted to  
13 two specifications, right? No? Four?

14 MS. VOGEL: That's correct, it was four.

15 THE COURT: 19 through 22?

16 MS. VOGEL: Correct.

17 THE COURT: So there were a number of other  
18 specifications he did not admit to, but he admitted to  
19 Specifications 19 through 22, and so we're proceeding today  
20 with sentencing. I want to go over with everybody what I  
21 received in connection with sentencing. If I have left  
22 something out, of course, let me know.

23 First of all, I have reviewed the report prepared by  
24 the Probation Office on June 14th of this year that lays out  
25 the various alleged violations as well as some background. I

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1 have also reviewed the transcript of the proceeding that took  
2 place on July 12th. That was the initial appearance, and the  
3 August 28th transcript in which Mr. Feagins admitted to  
4 Specifications 19 through 22.

5 I have reviewed Mr. Seidler's sentencing memorandum  
6 which is dated November 9th. It is a two-page letter that also  
7 attaches a number of letters, including one from Mr. Feagins,  
8 including letters also from family members. So it also  
9 attached -- well, a letter of November 13th attached some  
10 additional materials, including certificates of programs  
11 completed by Mr. Feagins at various times as well as a resume  
12 of sorts. So I have reviewed all of that.

13 The government sent a submission, dated November 13th,  
14 which is five pages, single-spaced. The government also  
15 included a couple of exhibits which were filed under seal, and  
16 they include letters from victims of the specifications. So I  
17 have reviewed those.

18 Finally, I have a November 15th submission from Mr.  
19 Seidler just indicating -- a short letter just saying that Mr.  
20 Feagins disputes the sexual conduct that was recorded and  
21 posted saying it was coerced. He is suggesting it was  
22 consensual. In any event, none of the specifications related  
23 to coerced sexual activity were admitted to. I am not going to  
24 proceed on the basis of a coercion, but what he pled to is  
25 pretty serious in itself.

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1 I have also reviewed the materials from the Middle  
2 District Of Georgia related to the initial sentencing. I  
3 didn't sentence Mr. Feagins. He was sentenced down in Georgia  
4 back in 2015, and the case was then assigned to me after the  
5 supervision or the supervised release of Mr. Feagins was  
6 transferred to this district. I reviewed those materials as  
7 well. That is what I have.

8 Is there anything else I have overlooked?

9 MS. VOGEL: No, your Honor.

10 MR. SEIDLER: No, sir.

11 THE COURT: So a sentencing for violation of  
12 supervised release is a little different than a sentencing for  
13 a crime after a trial or after a guilty plea and indictment.  
14 Generally speaking, the focus for violation of supervised  
15 release is the breach of trust reflected by the violation. So  
16 it is not largely punitive. It is really about the breach of  
17 trust.

18 That is not to say the court doesn't also consider the  
19 nature of the violations and concerns about recidivism,  
20 concerns about deterrence, both general and specific. Those  
21 are still legitimate inquiries. Of course, the Judge also has  
22 to consider the facts and circumstances of the defendant's life  
23 and the facts and circumstances of the particular violations.  
24 So I have to consider all of those things.

25 The focus is not so much on punishment or retribution

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1 as much as what I talked about before. I still do have to  
2 consider the sentencing guidelines, but the sentencing  
3 guidelines with respect to violation of supervised release are  
4 purely advisory, and they were always so. In this case, I  
5 don't think there is any disagreement as to how the guidelines  
6 apply here. The violations in question, they're all Grade C  
7 violations. They're all, therefore --

8 MR. SEIDLER: One is a Grade A, your Honor.

9 MS. VOGEL: Grade B.

10 THE COURT: No. 20 is a Grade B?

11 MS. VOGEL: Correct.

12 THE COURT: Specification 20 has a guidelines ranges  
13 of 18 to 24 months. Specifications 19, 21 and 22 are Grade C  
14 violations, and they have a guidelines range of 7 to 13 months.

15 The maximum sentence is 24 months, and I'm certainly  
16 free to reimpose a term of supervised release of up to life,  
17 correct, Mr. Greene?

18 MR. GREENE: Yes, your Honor.

19 THE COURT: Does anybody disagree with what I just  
20 said about the maximum penalties available to me?

21 MR. SEIDLER: No, sir.

22 MS. VOGEL: No.

23 THE COURT: So I think what we'll do is I'll first  
24 hear from the lawyers. There are no victims who wish to be  
25 heard in court, correct?

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1 MS. VOGEL: That's correct, your Honor.

2 THE COURT: If they were here, they would have a right  
3 to be heard, Mr. Feagins, but they're not here, so I'll rely on  
4 what they wrote that has been docketed.

5 I will hear from Mr. Seidler first, and then hear from  
6 Ms. Vogel, and then I'll then hear from Mr. Greene, and then  
7 after that I'll finally give you an opportunity to address the  
8 court if you would like, Mr. Feagins. You're not required to,  
9 but you have a right to speak, and I'll give you that  
10 opportunity after I have heard from the lawyers and from  
11 probation, okay?

12 If you have any questions or if you have difficulty  
13 understanding, of course, let me know. I want to make sure you  
14 follow this and your mother is able to follow this and  
15 everybody is able to follow what is going on here in court.  
16 This is a very important day and we're in no rush. I want to  
17 make sure we do it carefully, thoughtfully and thoroughly, all  
18 right?

19 So, Mr. Seidler, I have read the submissions you have  
20 made, and so I am happy to hear anything else you would like to  
21 say.

22 MR. SEIDLER: Well, your Honor, it is a difficult  
23 case. In many ways, it is kind of an ugly case. If I could  
24 peel that away for a moment and tell your Honor that from the  
25 very beginning, Mr. Feagins has always discussed with me and

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1 admitted with me and ultimately admitted to the court that what  
2 he did was meanspirited, immature. He got into a  
3 back-and-forth with Ms. Landson, didn't control the situation,  
4 lashed out and was spiteful.

5 I'm not going to get into the implication of coercion,  
6 but I am not going to blame the victim, but, your Honor, the  
7 focus of Mr. Feagins' attention while he has been incarcerated  
8 is: A, what he did to himself and what he did to Ms. Landson,  
9 but even more strongly, his conduct, your Honor, has had a  
10 terrible impact on his mother, and selfishly he wasn't thinking  
11 of his mother when he engaged in this electronic or digital  
12 correspondence and messages with other people.

13 His mother, your Honor, suffers from diabetes, has had  
14 a leg amputated, toes amputated, and Mr. Feagins was supposed  
15 to be there to help her get through these difficulties and  
16 medical problems, and instead he sits here in a blue outfit in  
17 jail once again because he wasn't able to properly think  
18 through the situation and control his temper.

19 But, you know, for whatever it is worth, in the five  
20 or six months that I did represent Mr. Feagins, despite what he  
21 did and despite his temper, he is a terribly bright, well  
22 spoken -- I am not going to say young man, but he is in his  
23 30's now, who has a lot of potential, who in my estimation  
24 could do just about anything he sets his mind to, and we have  
25 talked about this at length.

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1 I think at this point in his life, he realizes that he  
2 is not supposed to be in jail, and being in jail is a waste of  
3 his life and that he needs finally to grow up and make  
4 something of himself and to help his mother who has given so  
5 much to him.

6 I know, your Honor, it is customary for defense  
7 counsel to always get up and say, "Judge, give him the  
8 minimum." I just don't think in this case the maximum is the  
9 fair penalty for Mr. Feagins. He desperately wants to make  
10 something of his life, and being in jail for this frankly  
11 stupidity is not going to get him there, and he knows that.

12 In fashioning a sentence, your Honor, I would ask the  
13 court to also take into consideration that he has really been  
14 in jail since the very end of April or May in state custody.

15 THE COURT: May 2 is what we had talked about.

16 MR. SEIDLER: May 2 is when they picked him up in that  
17 matter. They restored him to parole because the complainant  
18 basically wasn't cooperating with the state parole. He has  
19 been in jail since that period of time.

20 THE COURT: I don't know if he has credit for that as  
21 part of the state term or not. That is still not clear to me.  
22 I was going to ask Mr. Greene about that. Maybe he has some  
23 thoughts. As far as you understand it, is the Bureau of  
24 Prisons going to credit the time between May 2 and July 11th?

25 MR. GREENE: I don't believe so, your Honor.



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1           Typically when they're serving a sentence of some  
2 other kind for parole or local arrest, if that is being served  
3 and credited to some other kind of sentence such as the parole  
4 sentence, it wouldn't go towards the violation.

5           MR. SEIDLER: That is my understanding, too. The  
6 place where he is first arrested, they're not going to give him  
7 time.

8           THE COURT: He wasn't separately prosecuted, so it is  
9 complicated by the fact he was on supervision, he was on  
10 probation or parole, I forget which, so in lieu of prosecuting  
11 him, I guess they revoked that and restored that and then it  
12 terminated on its own steam.

13          MR. SEIDLER: Correct.

14          THE COURT: He was termed-out. It seems as though his  
15 incarceration after May 2 up until July 11th I think counted  
16 towards his state parole. If that is the case, he wouldn't get  
17 credit for it in the Federal Bureau of Prisons. I think we all  
18 have the same understanding, but it is not a hundred percent  
19 clear to me because this is a violation as opposed to a crime  
20 he was charged on and convicted and sentenced on.

21          MR. SEIDLER: I am not going to go on and on. I know  
22 Mr. Feagins will want to address your Honor as well. I would  
23 just emphasize that in dealing with Mrs. Feagins and Darnell,  
24 on behalf of their relationship at this point, the main  
25 relation is focused how he failed his mother and the harm he

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1 has caused to Ms. Landson by his rather immature and  
2 inconsiderate and crude behavior.

3 Thank you, your Honor.

4 THE COURT: Thank you, Mr. Seidler. Ms. Vogel, is  
5 there anything you would like to say?

6 MS. VOGEL: Thank you, your Honor.

7 So the defendant's conduct, which is the unlawful  
8 surveillance and dissemination of that video, is truly  
9 egregious conduct and a serious breach of the court's trust.  
10 For that reason, there is really no justification or excuse for  
11 such offense conduct. It caused real harm to real victims.  
12 Filming anyone in an intimate sexual act without consent is  
13 bad, and the person in that moment engaged in the sexual act is  
14 really at their most vulnerable.

15 Choosing to share that film is even worse, and sharing  
16 it to numerous people who are particularly close to the victim  
17 to maximize the embarrassment and harm to her is really even  
18 worse than truly egregious. His conduct shows that he  
19 intended to maximize the harm to the victim and her wife by  
20 sending this video to numerous people. It was deliberate and  
21 it was callous and it really shows he went out of his way to  
22 increase the harm.

23 I also think there is a need for specific and general  
24 deterrence here. The defendant has already been sentenced to  
25 two years previously for criminal sexual act in the state. He

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1 was also previously sentenced to 27 months for failure to  
2 register as a sex offender, so here the government is seeking a  
3 sentence at the high end of the guidelines, which would bring  
4 the highest -- the high end is 24 months, and that is  
5 comparable to the time he has already been sentenced to, so  
6 really it would be appropriate here given that the prior  
7 sentences that he received have not deterred him not only from  
8 additional criminal conduct, but additional criminal conduct  
9 that is sex-related. It really shows the defendant has an  
10 issue here with this particular type of criminal conduct.

11 On top of that, the defendant was engaged in sex  
12 offender treatment during this time when he was engaged in this  
13 conduct, and he was both on supervision for parole with the  
14 state and on supervision for probation with the federal  
15 government, so lots of supervision while he conducted this  
16 behavior, and it really shows a need for deterrence in this  
17 case.

18 With respect to general deterrence, I think there is a  
19 need to send a strong signal to society that this kind of  
20 behavior is not to be tolerated. It is something that has  
21 become more prevalent with the use of social media and the ease  
22 with which sexual acts can be filmed given that cell phones and  
23 all have cameras are ubiquitous, everyone has one at this  
24 point. It is serious conduct that the court should send a  
25 signal to society as well this kind of behavior is not to be

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1 tolerated. Unless the court has questions, that is all I would  
2 like to say.

3 THE COURT: All right. No, I have no further  
4 questions. All right. Mr. Greene, is there anything you would  
5 like to say?

6 MR. GREENE: Your Honor, I would just echo some of the  
7 government's sentiments in relation to specific deterrence  
8 needed for Mr. Feagins at this point. Defense counsel pointed  
9 out that the impact and the toll this has taken on Mr. Feagins'  
10 mother, but left out the incredible impact this has left on the  
11 victims, who I have personally spoken to, looked into their  
12 eyes and felt the pain that they have endured based on Mr.  
13 Feagins' actions.

14 This was, as your Honor mentioned, a breach of trust  
15 on numerous levels to the Court, New York State Parole, to our  
16 Office, a certain level of deception. People registered as sex  
17 offenders are not supposed to have Facebook accounts. Any  
18 social media accounts are supposed to be registered with the  
19 New York State Sex Offender Bureau. Again deterrence is  
20 needed.

21 There was a discussion in terms of Mr. Feagins' lack  
22 of control, but he was able to hold down a steady job. He was  
23 able to report as required. He was able to attend sex offender  
24 treatment. Unfortunately, instead of focusing on his efforts  
25 on rehabilitation, he focused on more predatory motives and he

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1 victimized a lot of young people.

2 THE COURT: With respect to supervised release, an  
3 additional term of supervised release, do you have a  
4 recommendation?

5 MR. GREENE: We recommend continued supervised  
6 release, your Honor.

7 THE COURT: For how long?

8 MR. GREENE: I think another five years would be  
9 appropriate, your Honor.

10 THE COURT: Any additional terms beyond those  
11 previously imposed?

12 MR. GREENE: Not in addition to those added by your  
13 Honor in a previous modification. However, I think we also  
14 would request if Mr. Feagins has electronic devices with  
15 internet capability, that that be monitored.

16 THE COURT: That that be?

17 MR. GREENE: Monitored.

18 THE COURT: Should I just bar him from having those to  
19 begin with?

20 MR. GREENE: Yes, your Honor.

21 THE COURT: Are you asking me to do that?

22 MR. GREENE: Well, we're not asking your Honor that at  
23 this point. I think access to the internet seems to be almost  
24 a necessary requirement of daily life at this point, and again  
25 our purpose is rehabilitation. If we can teach someone to use

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1 these tools responsibly, that would be our ultimate goal.

2 THE COURT: Thank you.

3 Mr. Feagins, is there anything you would like to say?  
4 I have read your letter. I can rely on that. If there is  
5 anything else you would like to say, I am happy to hear from  
6 you.

7 THE DEFENDANT: Yes, sir. I would like to say I take  
8 full responsibility for my actions. What I did was petty,  
9 unkind, foolish.

10 THE COURT: Petty, foolish and -- I didn't hear the  
11 last part?

12 THE DEFENDANT: I said petty, foolish, unkind. I  
13 understand the severity of everything that occurred. I  
14 understand what I did to the family and myself as well and it  
15 has taken a toll on my family as well. I take accountability  
16 for my actions, sir. Thank you.

17 THE COURT: Thank you.

18 Let me tell you the sentence I intend to impose and my  
19 reasons for it. In our system of justice, Judges have to  
20 explain themselves. They have to give reasons. I think that  
21 is a good thing. I think it is important that a defendant or a  
22 supervisee understand why the judge imposed the sentence that  
23 he or she did. I don't think a defendant should have to  
24 wonder. I don't think the defendant's family should have to  
25 wonder, nor should the victims or the public at large. As I

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1 said, this is a public courtroom, so anyone can come in and  
2 watch these proceedings.

3 It is important that the Court, the Judge explain  
4 himself in articulating why the sentence imposed is the  
5 appropriate one. Sentencing is hard. Sentencing is the  
6 hardest thing I do not intellectually, but as a matter of  
7 exercising judgment, and the impact of the sentence is so  
8 profound that it is something that I think most Judges worry  
9 about. They lie awake at night thinking about it, which is  
10 probably as it should be because it should never be easy.

11 Imposing a sentence of incarceration on another human  
12 being, to take liberty from a person is a very, very serious  
13 thing, and so the Judges I know -- and certainly I myself --  
14 take this very, very seriously.

15 So I look at you and I say some of what Mr. Seidler  
16 says I don't agree with. You strike me as a bright guy, strike  
17 me as somebody who has talents and worked and have the capacity  
18 to work and to succeed professionally. A lot of people don't  
19 have that. I sentence people who don't have nearly the skills  
20 or just the raw intelligence you have, and their options as a  
21 result are limited. That in part in some ways accounts for  
22 their criminal conduct, they keep crawling back to criminal  
23 activity because they find it very difficult to find gainful  
24 employment because they don't have the skills or the talents  
25 that you have.

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1 I look at your mother here, and she is suffering with  
2 you. I understand that, but you have somebody who cares about  
3 you, somebody who taught you right from wrong, who supported  
4 you, who worries about you and for you, and that is something  
5 that not every defendant has, either. In some ways it is a  
6 good thing for you, it shows you have a support system, you  
7 have people who care about you, and that is good. It provides  
8 a safety net that can be helpful in the future.

9 At the same time, it kind of underscores how  
10 inappropriate this is because you knew better. We have talked  
11 about how this has an impact on your family and, of course, it  
12 does, but you should have understood that. To be prosecuted  
13 for, violated on the conduct that we have here, it should be a  
14 source of embarrassment to you and obviously is a source of  
15 embarrassment to your mother and to your family.

16 This is really bad conduct, and you should know  
17 better. You should know better. The other thing, of course, I  
18 have to consider is your own personal history. This is not  
19 your first time facing a Judge. You're in Criminal History  
20 Category V. You have a lengthy record of prior convictions,  
21 prior involvement with the criminal justice system going back  
22 to when you were quite young, but a lot of it involved  
23 violence, just outright violence and reckless, high-speed  
24 chases, assaulting people, punching people in the face.

25 Then, of course, was the sexual offense in which you



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1 perpetrated basically a rape of somebody. That's an incredibly  
2 serious crime. That is what required you to register as a sex  
3 offender in the first place, which you didn't do, and you  
4 absconded and it compounded the problem. That has been a  
5 recurring problem as well.

6 To finally be on supervised release and to be getting  
7 your life in order and to do this, I don't know what to think.  
8 It seems to me you're a person who, notwithstanding the fact  
9 you're smart and talented, you just lack any kind of control,  
10 and I don't know what that means for the future. It concerns  
11 me that you're dangerous, you're dangerous to innocent people,  
12 and so that weighs on me a great deal also.

13 It seems to me the sentences imposed thus far have not  
14 had an impact on you. I don't know why that is because you're  
15 smart enough to understand, but you don't seem to be able to  
16 follow through. Then there is the seriousness of this conduct.

17 This is, to call it heavy, unkind and foolish is  
18 really to understate what this was. This was an act of  
19 incredible abuse. This is, in essence, a kind of terrorism.  
20 You did this. You posted this video in order to terrorize, to  
21 inflict maximum emotional damage on someone for not complying  
22 with your will and to then further inflict it on people close  
23 to her.

24 Her spouse, her closest family members and friends,  
25 the impact that this has had on the victim is discussed in the

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1 letter. It is a sealed letter, but presumably you have seen it  
2 and you understand that this is still a source of incredible  
3 trauma to this individual and to those around her. It wasn't  
4 just unkind. It was cruel. It was violent in a very real  
5 sense. It was something that you of all people can't be doing  
6 and you know is not allowed to have social media accounts.  
7 Providing information about it to Probation is really I think  
8 compounds the problem. You're someone who is unwilling to be  
9 supervised and unwilling to abide by the law and the conditions  
10 of supervised release.

11 I don't say that with any satisfaction. I am not here  
12 to wag my finger at you and lecture you, but I have to give  
13 reasons and this is really a case just unlike any I have really  
14 seen in terms of just enormity of misconduct and cruelty and  
15 the impact it has had.

16 So in light of all of that, I have to say I have very  
17 little hesitation in imposing 24 months. That is the maximum  
18 sentence I can impose. If I could impose more, I would. I  
19 can't do that. That is the maximum I can impose, so I will  
20 impose that. I am also going to impose supervised release for  
21 a lifetime because I just think the consequences here are too  
22 great if you are left unsupervised.

23 I am going to impose the conditions that were  
24 previously in place as well as some others. First of all, you  
25 will have to register as a sex offender. You have to do that

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1 as a condition of supervised release. You have to comply with  
2 that. If you don't, it is a crime and you will be prosecuted  
3 separately and you will be back in front of me and you will be  
4 violated and sentenced again on this case. There are mandatory  
5 conditions that you may not commit another federal, state or  
6 local crime of any kind, you may not use or possess any kind of  
7 controlled substance, you have to participate in the collection  
8 of DNA as directed by Probation.

9 There are 13 standard conditions. I will impose those  
10 here. Amongst those is that you may not possess a firearm of  
11 any kind. Then there are special conditions I will impose  
12 here. That includes you will not engage in any social media,  
13 so no posting and Tweeting, no Facebook accounts. If you have  
14 such accounts, you must disclose all of them to the probation  
15 officer. You are not to have any such accounts, and all of  
16 your electronic devices have to be monitored by Probation to  
17 make sure you are not utilizing social media or electronic  
18 devices in a way that is inconsistent with your supervised  
19 release or in any way consistent with the conduct that you have  
20 admitted to here.

21 You will be subject to a search of your residence,  
22 your place of business, your vehicle, your electronic devices,  
23 phones, laptops, iPads, anything like that, your person, and in  
24 the event that Probation believes there is evidence of a crime  
25 or evidence of a violation of supervised release, you must

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1 consent to that search. You can't defy it. You have an  
2 obligation to advise any adults with whom you share these  
3 premises, let them know you're subject to this search  
4 requirement so they can take steps to protect their own privacy  
5 and their own property. You're obliged to do that.

6 I will direct you provide any and all requested  
7 financial information to the probation officer. You will not  
8 be permitted to open any lines of credit, credit card accounts,  
9 bank loans, mortgages, any lines of credit at all unless  
10 Probation is notified in advance and approves.

11 I am going to order that you participate in mental  
12 health treatment that will include anger management. That  
13 treatment will be provided by a treatment provider approved by  
14 Probation. You are to comply with all of the conditions and  
15 requirements of that treatment. That will include group  
16 sessions, it will include appearing as directed and may include  
17 testing to see if you're using any kind of drugs. I will  
18 permit that testing.

19 I will also permit the treatment provider to share  
20 information with Probation and Probation to share information  
21 with the treatment provider. To the extent you can afford to  
22 cover the cost of that treatment, I am going to ask you to do  
23 that. If you're working, you have access to insurance, you  
24 have access to other forms of support for the program, I will  
25 ask that you help defray the costs. If not, the court will

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1 bear the costs because I think it is important you get this  
2 treatment. Those are the conditions.

3 Is there anything else beyond that you would like me  
4 to impose?

5 MR. GREENE: Your Honor mentioned mental health  
6 treatment and anger management and sex offender treatment.

7 THE COURT: That is mandatory for sex offenders. That  
8 is explicit. That is already part of this supervision. So  
9 that is the sentence.

10 Is there Any legal impediment to my imposing that  
11 sentence?

12 MS. VOGEL: Not that I am aware of, your Honor.

13 MR. SEIDLER: I have no legal impediment. If I could  
14 just make a statement. I think imposing a lifetime supervised  
15 release -- I think it should be evaluated from time to time.

16 THE COURT: It can be. It can always be revisited.  
17 There is a petition to reduce it. After five or more years of  
18 good compliance, I might be open to that. It is not designed  
19 to be vindictive, but this conduct on the heels of a failure to  
20 register as a sex offender, on the heels of a state conviction  
21 for a sexual offense involving minors is so unfathomable to me  
22 that I won't take the risk at this point.

23 There is also the possibility with future conduct and  
24 compliance will come an opportunity to seek a modification.  
25 That is not off the table, but at this point I am going to need

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1 to see some real signs of turnaround before I would entertain  
2 that.

3 MR. SEIDLER: I didn't want to see a 50-year-old man  
4 who has exercised good behavior for 20 years continue to pay  
5 for mistakes --

6 THE COURT: I see that and I will be open to those  
7 arguments if we get there.

8 MR. SEIDLER: Thank you.

9 THE COURT: So there are open counts or open  
10 specifications of violations? Some are very serious, even more  
11 serious than the ones admitted to. I have not sentenced on the  
12 basis of those because they have not been proven or admitted.

13 Those will be dismissed, correct?

14 MS. VOGEL: That's correct.

15 THE COURT: I will dismiss the open counts. I should  
16 tell you, Mr. Feagins, you have the right to appeal this  
17 sentence if you wish to. To the extent you wish to appeal, you  
18 need to file a notice of appeal within two weeks. Talk to Mr.  
19 Seidler about that. He will assist you in filing a notice of  
20 appeal. Mr. Greene, is there anything else you would like the  
21 court to cover today?

22 MR. GREENE: No, your Honor.

23 THE COURT: I am happy to restate the sentence.

24 MR. SEIDLER: It is not necessary.

25 THE COURT: Is there any recommendation you like me to

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Sentence

1 make with respect to where Mr. Feagins would be housed, Mr.  
2 Seidler?

3 MR. SEIDLER: It is going to be difficult for his  
4 mother to travel anywhere, but certainly further away makes it  
5 impossible. I think for her benefit and for his benefit, if he  
6 can be as close as possible to New York City to have  
7 visitation.

8 THE COURT: I will make that recommendation. I can't  
9 order it, but I will recommend it. Mr. Feagins, good luck to  
10 you. I do hope that this is the last time you're in a  
11 courtroom, certainly the last time you ever do anything,  
12 anything approaching the conduct that got you here. I hope you  
13 will reflect on it and realize how destructive it was and awful  
14 it was and people are still going to be dealing with that for  
15 many years as a result of your cruelty and bad judgment. Think  
16 about that, too. Thanks very much.

17 Let me thank the Marshals and thank the Court Reporter  
18 as well.

19 (Court adjourned)  
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